

Department of State

633.214-70

For reports involving use of the 10 work day express option provided at FAR 33.104(a)(4), the Office of the Legal Adviser shall establish the report delivery date after consultation with the head of the contracting activity.

(b) *Protests before award.* If a protest before award has been filed with GAO and the contracting officer determines in writing that it is necessary to make award under the circumstances prescribed in FAR 33.104(b)(1), the contracting officer shall first obtain advice from the Office of the legal Adviser. The contracting officer shall submit the written determination to the head of the contracting activity for approval.

(f) *Notice to GAO.* The authority to submit the report prescribed in FAR 33.104(f) is delegated, without power of redelegation, to the head of the contracting activity. The report shall be submitted to the Comptroller General through the Office of the Legal Adviser.

[53 FR 26173, July 11, 1988, as amended at 59 FR 66764, Dec. 28, 1994]

633.105 Protests to GSBCA.

(a) Upon receipt of a copy of a protest to GSBCA, the contracting officer or the official designated in the solicitation shall immediately notify the Office of the Legal Adviser and the Deputy Assistant Secretary for Information Management. The contracting officer is responsible for compliance with the requirements in FAR 33.105(a)(2). The contracting officer shall include in the contract file a record of such notifications to all parties and related correspondence with GSBCA. The contracting officer shall provide to the Office of the Legal Adviser a copy of the list of interested parties notified, simultaneously with submission of the list to the GSBCA.

(b) The contracting officer shall submit to the Office of the Legal Adviser an original and two copies of the protest file, documented in conformance with FAR 33.105(b), within 8 work days after the filing of a protest. The contracting officer also shall provide a complete copy of the file to the protester and all other interested parties within 10 work days after filing of the protest. The protest file shall be orga-

nized to comply with the requirements of Rule 4(b) of the GSBCA Rules of Procedure (48 CFR Ch. 61). The Office of the Legal Adviser shall then submit the file to the GSBCA within 10 work days after filing of the protest.

(c) The Office of the Legal Adviser shall represent the contracting officer at any hearing on suspension of the agency's delegation of procurement authority or at any hearing on the merits of the protest. The Office of the Legal Adviser shall notify the contracting officer and the Deputy Assistant Secretary for Information Management of the results of any hearing.

(d) The authority to execute the determination and findings (D&F) prescribed in FAR 33.105(d)(2) is delegated, without power of redelegation, to the head of the contracting activity.

[53 FR 26173, July 11, 1988, as amended at 59 FR 66764, Dec. 28, 1994]

Subpart 633.2—Disputes and Appeals

633.203 Applicability.

The Procurement Executive is the agency head for the purposes of FAR 33.203(b).

633.211 Contracting officer's decision.

(a) In the second sentence of FAR 33.211(a)(4)(v), contracting officers shall replace "the Board of Contract Appeals" with "Armed Services Board of Contract Appeals, Skyline 6, 5109 Leesburg Pike, Falls Church, VA 22041."

(b) Prior to issuing a contracting officer's final decision, the contracting officer shall obtain assistance, as appropriate, from the Office of the Legal Adviser.

633.214-70 Alternative dispute resolution.

(a) *Policy.* The Department's goal is to resolve contract disputes before the issuance of a contracting officer's final decision under the Contract Disputes Act. Contracting officers shall consider all possible means of reaching a negotiated settlement, consistent with the Government's best interests, before issuing a final decision on a contractor claim under the process outlined in FAR 33.206 through 33.211.